

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>CHARLES DIXON (139244),</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.: 2:06-CV-266-MHT</b>
	)	
<b>RICHARD ALLEN, BOB RILEY</b>	)	
<b>And SIDNEY WILLIAMS,</b>	)	
	)	
<b>Defendants.</b>	)	

**ANSWER and SPECIAL REPORT**

**COMES NOW**, the Defendants **Richard Allen and Bob Riley**, by and through Bettie J. Carmack of the State of Alabama Attorney General's Office, and, in response to this Honorable Court's Order dated April 24, 2006, state as follows:

**PARTIES**

1. Richard Allen – Alabama Department of Corrections (ADOC)  
prison commissioner
2. Bob Riley – Governor of the State of Alabama
3. Sidney Williams – Chairman of the Alabama Board of Pardons and  
Parole

**ANSWER**

In answer to Plaintiff's allegations, Defendants state as follows:

1. Defendants deny Plaintiff's allegations and demand strict proof thereof.
2. Defendants deny that any of the Plaintiff's constitutional rights have been violated.
3. Defendants assert the affirmative defenses of sovereign and qualified immunity.
4. Defendants deny each and every material allegation not expressly admitted herein and demand strict proof thereof.

**PLAINTIFF'S CLAIMS**

The Plaintiff has made the following claims against the Defendants regarding the living conditions at Easterling Correctional Facility:

- I. The prison is overcrowded and, as a result,
  - A. The facility houses 1380 inmates when it can only hold 650.
  - B. The dorms were designed to hold 60 men, but there are currently 130 men in the dorms.
  - C. The bathroom facilities are inadequate.
    1. One urinal
    2. 5 toilets
    3. 8 shower heads
  - D. Staph infections are occurring because of the conditions of the prison.
  - E. Hepatitis C is a major concern, but the prisoners are only vaccinated for Hepatitis B.
  - F. There is not enough hot water.

- G. The barber shop conditions are unsanitary and, as a result, scalp diseases and skin diseases are evident.
  - H. The overcrowding has caused a fire hazard.
  - I. The officers are working too much.
  - J. The prison is understaffed.
- II. The prison is deliberately indifferent to the above stated conditions.

***HARMS'S COMPLAINT IS DUE TO BE DISMISSED BECAUSE THERE CAN BE NO LIABILITY UNDER THE THEORY OF RESPONDEAT SUPERIOR OR VICARIOUS LIABILITY.***

In his complaint, the only Defendants named are the Prison Commissioner, the Governor of the State of Alabama and the Chairman of the Board of Pardons and Paroles. "It is clear that [these] defendants are designated defendants solely on account of their ultimate supervisory roles as head of state government and head of the government which oversees state prisons. The law is well[-]settled that supervisory officials cannot be held liable in an action brought pursuant to 42 U.S.C. § 1983 under the theory of respondeat superior or vicarious liability." Ford v. Deloach, No. Civ. A. 03-B-0110-N, 2005 WL 1243346, at \*3 (M.D. Ala. May 25, 2005).

To recover from these defendants, Dixon would have to show that they are "liable either through their personal participation in the acts comprising the alleged constitutional violation or the existence of a causal connection linking their actions to the violation." *See id.* Although Dixon has listed a number of alleged constitutional violations at Easterling Correctional Facility related to prison overcrowding, Dixon has failed to show how the actions of Commissioner

Allen or Governor Riley contributed to these alleged violations. As a result, Dixon's complaint is due to be dismissed. *See Ford v. Deloach*, 2005 WL 1243346, at \*4 ("[E]ven if [the plaintiff] could cure his deficient showing to maintain his action against the Governor and Corrections Commissioner, the claims against them would warrant dismissal since they are grounded solely on vicarious liability.")

### **CONCLUSION**

Based on the foregoing, the Defendants respectfully request that this Honorable Court dismiss the Plaintiff's action with prejudice.

Respectfully submitted,

TROY KING (KIN-047)  
ATTORNEY GENERAL  
By:

BETTIE J. CARMACK  
Bettie J. Carmack (CAR-132)  
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### **CERTIFICATE OF SERVICE**

This is to certify that I have on this 6<sup>th</sup> day of June, 2006, served copies of the foregoing *Answer and Special Report* upon the plaintiff by depositing same in the United States Mail, addressed as follows:

**Charles Dixon**  
**AIS # 139244**  
**Easterling Correctional Facility**  
**200 Wallace Drive**  
**Clio, AL 36017**

BETTIE J. CARMACK  
Bettie J. Carmack (CAR -132)  
ASSISTANT ATTORNEY GENERAL